

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE: SEPTEMBER 11 LITIGATION

)
)
) 21 MC 97 (AKH)
)
)

This document relates to:
Felicita Maria Sanchez, et al v.
United Airlines, et al
03 CV 7084 (AKH)

MOTION FOR APPOINTMENT OF GUARDIAN AD LITEM AND
MEMORANDUM OF LAW IN SUPPORT OF MOTION

COMES NOW the Plaintiff, Felicita Sanchez, through her undersigned counsel in the above referenced action and moves this Honorable Court for an Order appointing a guardian ad litem for the minor beneficiary to this wrongful death action, Marc Sanchez. In support of this Motion, the Plaintiff states as follows:

1. The Plaintiff in the above referenced action is Felicita Maria Sanchez. She brought the action as Personal Representative of the Estate of Jesus Sanchez, deceased, on behalf of the decedent's Estate and all wrongful death beneficiaries. The beneficiaries in this action are the decedent's daughter, Plaintiff Felicita Maria Sanchez, the decedent's minor son, Marc Sanchez, and the decedent's father, Jesus Sanchez, Sr.
2. Marc Sanchez is a minor, born on July 4, 1995. He resides with his mother in East Boston, Massachusetts.
3. The parties in this action have reached a settlement that resolves all claims brought in the case. This Court issued an Order of Final Judgment on January 10,

2008 approving the settlement and finding it fair and reasonable. The Motion for Compromise Order must now be prepared, which will include a plan for the distribution of the minor beneficiary's settlement proceeds on the minor beneficiary's behalf.

4. Plaintiff, Felicita Sanchez, through her undersigned counsel, seeks the appointment of a guardian ad litem for the minor beneficiary to ensure that the distribution plan for the minor's settlement proceeds serves the best interests of the minor.
5. This Court is authorized to appoint a guardian ad litem for the minor pursuant to the Federal Rules of Civil Procedure, Rule 17(c), which states in pertinent part: "The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person." FRCP Rule 17(c). The decision to appoint a guardian ad litem rests within the broad discretion of the Court. *See Makas v. Holanchock*, 2007 WL 1651830 (N.D.N.Y. 2007); *See also Rubin v. Smith*, 882 F.Supp. 212, 215 (D.N.H. 1995) (stating that the decision to appoint a special representative, such as a guardian ad litem, "rests with the sound discretion of the district court and will not be disturbed unless there has been an abuse of authority").
6. Bonnie Peters-Lawston, Esquire has agreed to act as guardian ad litem if appointed. Ms. Peters-Lawston has no interests adverse to the rights of the minor and is fully competent and responsible to serve as guardian ad litem. An affidavit

describing Ms. Peters-Lawston's qualifications to serve as guardian ad litem is attached hereto. *See* Exhibit A.

WHEREFORE Plaintiff requests that this Court enter an order appointing Bonnie Peters-Lawston, Esquire to serve as guardian ad litem for the minor beneficiary.

Dated: New York, New York
January 25, 2008

MOTLEY RICE LLC

By: s/ Elizabeth Smith
Ronald L. Motley, Esquire
Joseph F. Rice, Esquire
Jodi Westbrook Flowers, Esquire
Don Migliori, Esquire
Mary Schiavo, Esquire
Michael E. Elsner, Esquire (ME-8337)
Elizabeth Smith, Esquire
Robert T. Haefele, Esquire
Justin Kaplan, Esquire
Vincent I. Parrett, Esquire (VP-5092)
Motley Rice LLC
28 Bridgeside Boulevard
Post Office Box 1792
Mount Pleasant, SC 29465
Telephone: (843) 216-9000